

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DONALD P. KOHN,

Plaintiff,

v.

Case No. 20-11731

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

**OPINION AND ORDER GRANTING APPLICATION TO PROCEED WITHOUT
PREPAYING FEES AND SUMMARILY DISMISSING CASE**

Pending before the court is Plaintiff's application to proceed without prepaying fees or costs. A court may authorize a party to commence, prosecute, or defend an action or proceeding "without prepayment of fees" where the person submits an affidavit stating that they are unable to pay the fees associated with the case. 28 U.S.C. § 1915(a)(1). Whether to grant or deny an application to proceed *in forma pauperis* is within the discretion of the district court. *Flippin v. Coburn*, 107 F. App'x 520, 521 (6th Cir. 2004). For the reasons that follow in this order, the court will grant Plaintiff's application but will summarily dismiss the complaint.¹

Complaints filed by a plaintiff proceeding *in forma pauperis* are subject to the screening requirements of 28 U.S.C. § 1915(e)(2). *Brown v. Bargery*, 207 F.3d 863, 866

¹ Based on the information provided in Plaintiff's financial affidavit, it is a close question whether he has sufficient funds to pay the filing fee in this case. But as explained below, Plaintiff's complaint will be dismissed because it is frivolous. The court will grant his motion and summarily dismiss the case as opposed to requiring Plaintiff to pay the filing fee only to then dismiss the case for failure to state a claim.

(6th Cir. 2000). Section 1915(e)(2) requires district courts to screen and to dismiss complaints that are frivolous, fail to state a claim upon which relief can be granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2); *McGore v. Wigglesworth*, 114 F.3d 601, 604 (6th Cir. 1997).

A complaint is frivolous and subject to *sua sponte* dismissal under § 1915(e) if it lacks an arguable basis in either law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The same is true for complaints “describing fantastic or delusional scenarios.” *Id.* at 328. Under Federal Rules of Civil Procedure 8(a)(2), a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” To state a claim upon which relief may be granted, a plaintiff must present sufficient factual allegations which, if accepted as true, “state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Evans-Marshall v. Board of Educ.*, 428 F.3d 223, 228 (6th Cir. 2005).

Plaintiff’s complaint is difficult to parse. He asserts that his case invokes federal jurisdiction under the Freedom of Information Act and “federal cases still active and not active.” (ECF No. 1, PageID.3.) As the factual basis for his complaint, Plaintiff states that he wishes to receive confirmation from the FBI about whether he is a person of interest or witness in any criminal cases, including “the great train robbery,” the Lincoln assassination, Watergate, Chappaquiddick, the Kennedy assassination, and the “Hoffa” case. (*Id.*) Such a request, involving incidents that occurred decades ago, falls squarely within the sort of “fantastic or delusional scenarios” the Supreme Court has deemed subject to *sua sponte* dismissal. *Neitzke*, 490 U.S. at 328. Accordingly,

IT IS ORDERED that Plaintiff's application to proceed in forma pauperis (ECF No. 2) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's complaint is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2).

s/Robert H. Cleland /
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 7, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 7, 2020, by electronic and/or ordinary mail.

s/Lisa Wagner /
Case Manager and Deputy Clerk
(810) 292-6522

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